

# Media Release

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## Legal regulation in Victoria – not just a big stick

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The Victorian legal regulator is adopting a more proactive role in a bid to eliminate servicing and communication shortcomings in areas prone to consumer concern.

Michael McGarvie, Victorian Legal Services Commissioner and CEO of the Victorian Legal Services Board, said that preventative strategies and education of the profession had become vital regulatory tools in the effort to better protect the interests of consumers of legal services.

‘Modern regulators need to rely on more than just disciplinary action to protect consumers and ensure professional standards are being maintained,’ Mr McGarvie said.

‘Disciplinary action is appropriate after serious conduct issues have been detected, but by this time the damage to consumers has often already been done. The challenge is to reach lawyers in need and help improve their practices before they make such serious mistakes’.

Over the last several years the Commissioner has been working on new ways of identifying practitioners at risk of breaching their regulatory and ethical obligations. One approach has been to regularly assess complaints data and draw on information available from consumer organisations and community legal services.

‘We know from our discussions with consumer advocates that the consumer concerns in some legal areas are greater than our complaint numbers suggest,’ Mr McGarvie said.

Further investigation revealed systemic problems arising within particular sectors of the legal profession; one such area being the **auto repair industry**.

In 2014-15 the Commissioner received 24 complaints about lawyers involved in car repair claims – just two percent of the total number of complaints made about Victorian lawyers for the year. Yet consumer groups heard many more stories from disgruntled vehicle owners. In response the Commissioner wrote to all known legal practices involved in auto repair and insurance claims, inviting them to discuss the issues identified within the industry as a whole.

‘We offered to review their forms and business processes and to provide guidance on how to protect themselves from falling into the same traps that have led others to breach their professional obligations,’ Mr McGarvie said.

‘This allowed us to highlight where problems may arise for lawyers, so that fair minded practitioners can see where they may be risking conflict with consumers and regulators’.

The response has been positive. Participating lawyers have agreed to amend their forms and processes, where necessary, to ensure they handle clients and their cases appropriately.

The Commissioner has also adopted the same proactive approach with the **debt collection industry**; another area where consumer concerns are much higher than actual complaint numbers, and with similar success.

The Board and Commissioner have also used preventative strategies in several other areas.

To assist small to medium law practices the Board developed and recently updated a **self-assessment audit tool** to help them benchmark their processes against a series of minimum standards for the profession. This allows practices to identify where their business and management systems may be lacking in rigour or missing completely, and guides them on what they need to do to improve their operations themselves.

Additionally the Commissioner's **handling of initial calls** from potential complainants, and the office's **dispute resolution processes**, are designed to support better communication between the client and their lawyer. This has led to a significantly higher proportion of consumer concerns being resolved without the need to go to court.

'We also talk directly with the profession through seminars and conferences to share the lessons from VCAT and other court decisions on prosecutions. Discussing case studies in detail highlights the pitfalls for professional practise and the triggers for consumer concerns, and therefore complaints,' Mr McGarvie said.

'The benefits to both the profession and consumers of legal services may never be fully quantified by such small footprint regulatory processes, but that is one of the objectives of better regulation – fewer servicing mistakes being made and higher client satisfaction'.

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